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Chile

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Chile is a multiparty democracy with a constitution that provides for a strong executive, a bicameral legislature, and a separate judiciary. The Constitution written under the former military government retains certain institutional limits on popular rule. Some amendments to remove these limits were under review by the Congress at year's end. In January 2000, voters elected Ricardo Lagos of the Socialist Party as president in a free and fair runoff election. The judiciary is independent.

The armed forces are constitutionally subordinate to the President through an appointed civilian Minister of Defense but enjoy a large degree of legal autonomy. The President must have the concurrence of the National Security Council, which consists of military and civilian officials, to remove service chiefs. The Carabineros (the uniformed national police) and the civilian Investigations Police are under the operational control of the Ministry of Interior and were responsible for law enforcement and maintenance of order. A National Intelligence Agency was formed, also under the Ministry of the Interior, to coordinate intelligence-gathering and analysis functions. Civilian authorities maintained effective control of the security forces. Some members of security forces committed human rights abuses.

The economy was export-led and market-based; services and resource-based industry were the major sectors. The population was approximately 15.2 million, and real economic growth was estimated at 5.8 percent. Wages and benefits slightly outpaced inflation, but unemployment remained above 9 percent. Copper remained the most important export; salmon, forest products, fresh fruit, wine, fishmeal, other minerals, and manufactured goods also were significant sources of foreign exchange.

The Government generally respected the human rights of its citizens; however, problems remained in some areas. There were isolated reports of excessive use of force and mistreatment by police forces, and physical abuse in jails and prisons. Prisons often were overcrowded and antiquated. Detainees often were not advised promptly of charges against them nor granted a timely hearing before a judge. Anti-defamation laws were applied against journalists and authors. Domestic violence against women and violence against children continued to be serious problems. Some trafficking of persons to, from, and within the country reportedly occurred. Indigenous people remained marginalized, and human rights observers questioned the Government's application of the anti-terrorist law to indigenous activists. Child labor was a problem in the informal economy.

The Government, primarily the judiciary, continued to investigate human rights abuses committed during the former military government and, in several cases, passed sentence on those found guilty. In August, the Supreme Court upheld an Appeals Court decision to lift former President Pinochet's judicial immunity, and, on December 13, a judge indicted Pinochet for crimes committed as part of "Operation Condor" in the 1970s. Pinochet's defense immediately filed motions to dismiss on health, mental capacity, and technical grounds. The case remained pending at year's end. Constitutional reforms removing certain constitutional limits on popular rule passed the Senate and were being considered in the Chamber of Deputies at year's end.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

A number of cases from previous years, in which the police were accused of unlawful killings due to excessive use of force or mistreatment of prisoners while in custody, remained under investigation or pending resolution of appeals.

In January, Judge Raul Mera began questioning active and retired police officials in the 1988 deaths of Raul Pellegrini and Cecilia Magni, members of the Manuel Rodriguez Patriotic Front. The case had been declared closed twice due to lack of evidence.

The Supreme Court reaffirmed its position that the Amnesty Law (covering human rights violations from 1973 to 1978) and the statute of limitations should be applied only after the circumstances of the crime had been clarified and the guilty party identified. Courts prosecuted a number of cases based on plaintiffs' arguments that the abduction of political prisoners constituted an ongoing crime, not covered by amnesty, unless the subsequent execution of the subject could be established concretely by identification of remains. The State Defense Council (CDE) stated that this interpretation undermines the Amnesty Law, that kidnapping cannot be classified as a permanent or ongoing crime indefinitely, and that judges should end this legal subterfuge and establish a presumption of homicide by other reasonable means. The CDE opinion was not binding, and the Supreme Court has subsequently upheld convictions based on indefinite kidnapping.

The judiciary continued to investigate human rights abuses committed during the former military government and, in several cases, passed sentence on those found guilty. According to the Vicariate of Solidarity (a foundation linked to the Archdiocese of Santiago), at year's end, there were 373 former officials (mostly military officials but including some civilians) charged and under investigation for human rights violations against 642 victims; press reports indicated that, at year's end, 46 former security forces and 19 civilians had been convicted of human rights violations and sentenced.

On August 26, the Supreme Court upheld a May decision by the Court of Appeals to lift former President Pinochet's judicial immunity. On December 13, investigating judge Juan Guzman charged President Pinochet with nine kidnappings and one homicide committed as part of "Operation Condor" in the 1970s. Pinochet's defense immediately appealed, and the case remained pending at year's end.

The Foundation for Social Help of Christian Churches (FASIC), the Corporation for the Promotion and Defense of Human Rights of the People (CODEPU), and other human rights organizations have several denial of justice cases pending before the Inter-American Commission on Human Rights regarding previously closed disappearance and execution cases. Denial of justice cases based on application of the Amnesty Law also remained pending with the U.N. Commission on Human Rights.

The case of Spanish citizen Carmelo Soria, killed in Santiago in 1976, remained under investigation by a judge in the Sixth Criminal Court of Santiago.

Judge Alejandro Solis continued an investigation of the case of four retired generals and a civilian indicted in 2003 for the 1974 car bombing in Buenos Aires of former Chilean Army commander Carlos Prats. On March 15 and 24, the Court of Appeals reversed a January 29 Court of Appeals decision denying parole to two retired Army officials indicted in the Prats case and set the former officers free on bail. A request from Judge Solis to lift former President Pinochet's immunity in the Prats case was pending with the Santiago Court of Appeals at year's end.

The investigation into the case of retired security officer Rafael Gonzales, charged with the 1973 killing of U.S. citizen Charles Horman, remained open. Gonzales was free on bail at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

In 2002, the Ministry of Justice authorized 20 judges to dedicate their time exclusively to historic cases of disappearances and another 51 judges to give preference to the investigation of such cases. At year's end, 373 former officials (mostly military officials but including some civilians) were charged and under investigation for human rights violations against 642 victims, and 14 officials had been sentenced by mid-July.

There were no further developments in the investigations of military-era detentions and disappearances of persons at Colonia Dignidad, a German-speaking settlement 240 miles south of Santiago. Paul Schaefer, founder of the settlement and wanted on charges including the 1994 kidnapping and disappearance of Alvaro Vallejos, remained a fugitive. Schaefer's deputy Gerhard Muecke, arrested in 2000 in connection with Vallejos' disappearance, was reportedly free on bail pending trial.

The investigation into the 1985 disappearance of American citizen Boris Weisfeiler near Colonia Dignidad remained open at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices; however, CODEPU still received isolated reports of abuse and mistreatment by the Carabineros, the Investigations Police, and prison guards.

Few reports of abuse or mistreatment led to convictions. Cases of military and police abuse typically were processed in military, rather than civilian courts, a situation which was denounced by human rights nongovernmental organizations (NGOs) (see Section 1.e.). CODEPU was unaware of any case in which a member of the military or police had been convicted on abuse charges.

Unlike in the previous year, there was no report of the mistreatment of military conscripts. The Military Justice investigation of the

June 2003 death of conscript Raul Aedo Campos was closed.

During the year, there were instances of violent confrontations between Mapuche groups and local landowners, logging companies, and government authorities in the southern part of the country. The actions took the form of protests and, occasionally, instances of rock throwing, land occupations, and burning of crops or buildings. Several Mapuches were arrested in connection with acts of violence, and, in March, 16 Mapuches were charged with "illicit terrorist association" based upon the Government's invocation of the Anti-terrorist Law (see Section 5). On November 4, eight individuals were acquitted; four were released, the other four were remanded to police custody to continue serving sentences for prior convictions. Eight others refused to appear for trial and remained at-large and sought by authorities at year's end.

Prison conditions generally were poor. Prisons often were overcrowded and antiquated, with sub-standard sanitary conditions. According to the Ministry of Justice, there were approximately 37,000 prisoners in prisons designed to hold 23,025 inmates. Criminal and administrative investigations of the September 2003 fire in El Manzano prison facility in Concepcion, which caused 9 deaths and injured 18, continued at year's end. Another non-fatal fire occurred at the same facility in March. In its September report on the fire to the Chamber of Deputies Committee on Human Rights, the Gendarmeria stated that it had invested more than \$2.1 million (1.25 billion pesos) to equip national prison system facilities with fire fighting equipment. The Gendarmeria instituted fire-fighting training for prison guards and emergency response plans that it claimed have cut response time to fire and medical emergencies in half.

Food in prisons met minimal nutritional needs, and prisoners were able to supplement their diets by buying food. Those with sufficient funds often could "rent" space in a better wing of the prison.

Although most analysts stated that guards generally behaved responsibly and did not mistreat prisoners, prisoners registered complaints with CODEPU and the courts about beatings and mistreatment of prisoners. An Amnesty International (AI) April 2003 prison visit report recorded similar complaints and noted that overcrowding in prison facilities led to torture and ill-treatment. Prisoners accused guards of using excessive force to stop attempted prison breaks.

The Minister of Interior asked the courts to conduct independent investigations of credible complaints of police abuse, but such investigations often did not result in arrests due in part to the reluctance of judges to pursue the issue vigorously. CODEPU was investigating eight such complaints at year's end. Statistics on complaints of mistreatment and reliable reporting of such instances during the year were not available.

When requested by other human rights organizations or family members, CODEPU lawyers visited detainees during interrogations and represented some persons charged with terrorist acts in court. CODEPU continued to investigate alleged use of excessive force against detainees and particularly was concerned with the treatment of prisoners in maximum-security prisons and prisoners with HIV/AIDS and mental disabilities who allegedly failed to receive adequate medical attention.

In isolated instances, prisoners died due to lack of clear prison procedures and insufficient resources in the prisons. In March, in San Miguel Prison, Hernan Zuleta Sanchez experienced abdominal pains but did not receive timely or appropriate treatment, was placed in solitary confinement, and died early the following day from a burst hernia.

Women generally were held in separate facilities, which tended to be less crowded and with comparatively better conditions than prisons for men.

The law requires that juvenile offenders (those under the age of 18) be held separately from adult prisoners. A Diego Portales University study reported that, in May, the Gendarmeria moved juvenile offenders from the South Santiago prison for men to a reserved section of the Santiago women's prison, and two new juvenile detention centers were opened.

Pretrial detainees generally were not held with convicted prisoners.

The Government permitted prison visits by independent human rights observers, and such visits took place, including regular visits by Catholic and Protestant clerics and Paternitas, a family-assistance NGO. AI and the International Committee of the Red Cross were also granted access to facilities and prisoners.

d. Arbitrary Arrest or Detention

The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these provisions. Only public officials expressly authorized by law can arrest or detain citizens. The courts must be advised within 48 hours of the arrest and the detainee placed at a judge's disposition. No one can be held or detained except in their home or a public facility designed for that purpose.

The 27,000-member Carabinero force has primary responsibility for public order, safety, traffic control, and border security. The civilian Investigations Police, composed of approximately 3,600 detectives, is responsible for criminal investigations and immigration control. The Investigations Police, while under the operational jurisdiction of the Ministry of Interior, receive guidance from the prosecutor or judge responsible in a criminal investigation. The police force had an extremely low incidence of

corruption. Police, prison guards, and officials take courses in human rights, which are part of the core curriculum in the police and military academies.

The authorities generally respected constitutional provisions for arrest and detention; however, detainees often were not advised promptly of charges against them nor granted a timely hearing before a judge. The Constitution allows civilian and military courts to order detention for up to 5 days without arraignment and to extend the detention of alleged terrorists for up to 10 days. The Constitution allows judges to set bail. Provisional liberty must be granted unless a judge decides that detention is necessary to the investigation or for the protection of the prisoner or the public.

The law affords detainees 30 minutes of immediate and subsequent daily access to a lawyer (in the presence of a prison guard) and to a doctor to verify their physical condition. Regular visits by family members are allowed.

The law requires that police inform detainees of their rights and expedite notification of the detention to family members; it also prohibits police from demanding identification from or stopping persons based solely on suspicion and prohibits physical abuse by police against detained persons (see Section 1.c.).

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary has civil, criminal, juvenile, and labor courts of first instance throughout the country. There are 16 courts of appeal, at least 1 in every region. The Santiago and Valparaíso courts of appeal have several chambers that tend to specialize in a specific area of the law. The 21-member Supreme Court is the court of final appeal. A constitutional tribunal decides whether laws or treaties present conflicts with the Constitution. There is also a Court Martial and Naval Court Martial.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. An office of Public Defender provides professional legal counsel to anyone seeking such assistance. The judicial reform law, which was applied everywhere except in the Santiago greater metropolitan region, provides that national and regional prosecutors investigate crimes and formulate charges, leaving judges the narrower function of weighing the merits of evidence presented to them. Under the new system, three judge panels form the court of first instance. In the Santiago metropolitan region, which was expected to adopt the reform law in June 2005, criminal proceedings remained inquisitorial rather than adversarial. Under the inquisitorial system, a single judge investigates, formulates charges, takes written testimony, and issues rulings. Five-judge panels hear appeals. Under judicial reform, trials are public; under the inquisitorial system, criminal proceedings and most other proceedings were not public due to the written nature of the procedure. However, court records, rulings, and findings were generally accessible to the public.

The Constitution provides for the right to legal counsel, but indigent defendants, who account for the majority of the cases in the Santiago region, did not always receive effective legal representation. They usually were represented by someone from the Government's legal assistance corporation, who was sometimes a law student finishing studies under the supervision of one of the corporation's lawyers. Defendants have a right of appeal. The judicial reform law establishes a presumption of innocence, which the old system does not explicitly provide.

If formal charges are filed in civilian courts against a member of the military, including the Carabineros, the military prosecutor can ask for jurisdiction, which the Supreme Court sometimes has granted. This was of particular consequence in human rights cases from the period covered by the Amnesty Law, since military courts were more inclined to grant amnesty without a full investigation. Military courts have the authority to charge and try civilians for terrorist acts, defamation of military personnel, and sedition. Rulings by military tribunals may be appealed to the Supreme Court. Persons accused of terrorist acts and persons arrested during demonstrations for assaulting a police officer also were brought before military tribunals.

Civilians prosecuted in military courts have the same legal protections as those prosecuted in civilian courts. They are entitled to counsel, the charges are public, the sentencing guidelines are the same (with the exception that the death penalty can be imposed in a military court but not in a civilian court), and the Supreme Court ultimately may hear appeals. The primary difference in the military court system is that a military prosecutor brings the initial charges and conducts the investigation, and the first instance of appeal is in a Court Martial, composed of two civilian and three military judges.

There were no reports of political prisoners, although 57 inmates in Santiago's maximum-security prison, all charged with terrorist acts following the return to democracy, claimed to be political prisoners. In August, the Senate passed a law granting amnesty to 32 of these individuals, freeing those convicted on arms infractions or for illicit terrorist association after 1990.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice, subject to significant legal restrictions. The Government did not restrict academic freedom.

Human rights groups and press associations criticized the existence and application of laws that prohibit insulting state institutions, including the presidency and legislative and judicial bodies, and that allow government officials to bring charges against journalists who insult or criticize them. Military courts may charge and try civilians for defamation of military personnel and for sedition, but their rulings may be appealed to the Supreme Court (see Section 1.e.). Media and individuals can also be sued for libel. In July, a Senator filed a civil suit for damages against the Channel 13 television station and several individuals for airing a television interview naming him in the sexual abuse of a minor. The case was pending at year's end.

The Penal Code prohibits the surreptitious taping or recording of private conversations. A 2003 case involving the first application of the law remained pending at year's end.

Two major media groups controlled most of the print media, which largely were independent of the Government. The Government was the majority owner of La Nacion newspaper, but its editorial content was not under direct government control.

The broadcast media generally were independent of direct government influence. The Television Nacional network is state-owned but not under direct government control. It received no government subsidy and was self-financed through commercial advertising, editorially independent, and governed by a board of directors appointed by the President and approved by the Senate.

The government-funded National Television Council (CNT) was responsible for assuring that television programming "respects the moral and cultural values of the nation." The CNT's principal role was to regulate violence and sexual explicitness in both broadcast and cable television programming content. Films and other programs judged by the CNT to be excessively violent, have obscene language, or have sexually explicit scenes may be shown only after 10 p.m. when "family viewing hours" end. In practice, the ever-increasing volume of programming made the CNT's job difficult. The CNT occasionally levied fines.

The courts may prohibit media coverage of investigations in progress but did so rarely.

The Government did not restrict access to the Internet.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Church and State officially are separate; however, the Roman Catholic Church continued to receive some preferential treatment. All denominations practiced their faiths without restriction.

The law allows, but does not require, religious entities to register as not-for-profit corporations, with attendant tax benefits. The law grants non-Catholic religions the right to have chaplains in public hospitals, prisons, and military units; however, some leaders of the country's Protestant churches (accounting for more than 15 percent of the population) cited the absence of Protestant armed forces chaplains, difficulties for pastors to visit military hospitals, and the predominantly Catholic religious education in public schools as examples of discrimination.

Schools were required to offer religious education twice a week through middle school; however, enrollment in religious classes was optional. The creed requested by parents was supposed to be taught, although enforcement was sometimes lax. Instruction was predominantly in the Roman Catholic faith.

A government challenge to the registration of the Unification Church under new regulations remained pending in the Santiago Court of Appeals at year's end.

For a more detailed discussion, see the [2004 International Religious Freedom Report](http://www.state.gov/g/drl/rls/hrrpt/2004/41753.htm).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

The law prohibits forced exile, and it was not used.

The law includes provisions for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government established a system for providing protection to refugees. In practice, the Government provided protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers. By year's end, 568 persons residing in the country had recognized refugee status. The Government also provided temporary protection to 85 individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. These individuals were eligible for government-funded health care and education while awaiting adjudication, and were supported by the UNHCR and other organizations.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In 2000, voters elected Ricardo Lagos of the Socialist Party as president in a free and fair runoff election. Lagos is a member of the center-left Concertacion coalition, which includes his Socialist Party, the Christian Democratic Party, the Party for Democracy (of which Lagos is also a member), and the Radical Social Democrat Party.

The 1980 Constitution, as amended in 1989, includes provisions designed to protect the interests of the military and places limits on majority rule. It provides that various national institutions—including the President, the Supreme Court, and the National Security Council (the latter acting on nominations by the armed forces)—may appoint an additional nine senators (beyond those elected) to 8-year terms and that former presidents have an option to become senators for life, a position that former President Frei occupied. Former President Pinochet resigned his Senate seat in 2002.

In October, the Senate passed constitutional reforms striking provisions that limited the President's right to remove the commanders in chief of the three armed services and the Carabineros, removing all non-elected senators as of 2006, reducing the Presidential term of office from 6 to 4 years, and making the National Security Council a purely advisory body. At year's end, these provisions were pending approval in the Chamber of Deputies.

Transparency International's annual corruption index recorded that the public perceived the country as relatively free of corruption, although such perceptions were somewhat affected by lingering reports of government financial scandals and the revelation of former President Pinochet's secret bank accounts abroad. In May, almost 20 months after bribery charges first were brought, the judge in charge of the investigation convicted President Lagos' former Undersecretary of Transportation, 3 deputies from the government coalition, a former Chief of Cabinet from the Ministry of Public Works, and 3 businessmen from Rancagua and sentenced them to prison terms ranging from 21 days (suspended) to 3 years and 1 day and levied fines ranging from approximately \$1,750 to \$63,250 (1 million to 36 million pesos) for the crimes of bribery and subornation. Appeals to the Supreme Court remained pending at year's end. A judicial investigation into allegations of Ministry of Public Works involvement in a broader kickback scheme continued at year's end.

The country's Freedom of Information Act requires the Government and its agencies to make all non-classified information about their activities available to the public. The Controller General has noted an increasing tendency for agencies to classify information and has issued guidelines limiting what information should be restricted. All government ministries and most public agencies have web pages, although the amount of information available online varied widely.

There were no impediments to women's participation in government and politics. There were 15 women in the 120-seat Chamber of Deputies, 2 women in the 48-seat Senate, and 3 women in the 16-member cabinet.

Indigenous people have the legal right to participate freely in the political process, although relatively few were active politically. There were no members of Congress who acknowledged indigenous descent. There was one cabinet minister of indigenous origin who resigned to run in the municipal elections.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Several human rights NGOs faced difficulties, due to limited sources of funding. The Chilean Human Rights Commission, an NGO, is affiliated with the International League of Human Rights. FASIC continued to be active on a range of human rights issues and tracked the status of many human rights cases, particularly those involving the military. CODEPU again operated at greatly reduced levels of activity during the year due to a lack of resources. Many international NGOs also followed human rights issues closely.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution provides for equality before the law, and the Government generally respected these provisions. The Labor Code prohibits discrimination based on race, color, sex, age, nationality, national origin, or social status; however, such discrimination occurred in practice.

Women

Domestic violence against women was a serious problem. A 2001 University of Chile study, the most current available, indicated that more than half the women in the country had experienced violence in their relationship with their partner. The study estimated that 34 percent of women had been subjected to physical violence (of which 15 percent was sexual violence), and another 16 percent had suffered psychological violence.

The courts may order counseling for those involved in intra-family violence. At year's end, there were 17 government and 8 private centers to attend to victims of intra-family violence. An awareness program to prevent intra-family violence in the country's 13 regions reached 3,000 social workers, 2,000 families, and 2,500 young adults. During the year, the National Women's Service (SERNAM) together with other NGOs conducted courses on the legal, medical, and psychological aspects of domestic violence for police officers and judicial and municipal authorities.

Rape is a criminal offense. The age for statutory rape was raised from 12 to 14. The law protects the privacy and safety of the person making the charge. SERNAM's latest statistics indicated that 859 cases of rape were reported to the police in the first half of 2003. This number did not include other forms of sexual violence or abuse. Experts believed that a majority of rape cases went unreported.

The Ministry of Justice and the Investigative Police had several offices specifically to provide counseling and assistance in rape cases. A number of NGOs, such as La Morada Corporation for Women, provided counseling for victims of rape.

Adult prostitution is legal; however, police often detained prostitutes (usually as a result of complaints by residents of the neighborhood) on charges of "offenses against morality," which could lead to a \$70 (50,000 pesos) fine or 5 days in prison. Procurement or pandering is illegal and punishable under law. Inducing a minor (below age 18) to have sex in exchange for money or other favors is illegal; punishment ranges from 3 to 20 years in prison and a \$1,000 (612,000 pesos) fine depending on the age of the minor.

Laws passed in December 2003 specifically targeted child pornography and cyberporn, substantially increasing penalties for these activities. The Investigations Police has a Sexual Crimes Brigade charged with investigating and prosecuting pedophilia and child pornography cases.

There were no laws against sexual harassment, although it generally was recognized as a problem. A SERNAM study in the Greater Santiago area estimated that 11.8 percent of female employees suffered some form of sexual harassment. In industrial and service sectors, more than 20 percent of female employees reported some form of sexual harassment, and a third of female office employees reported harassment. More than half of those interviewed for the study, both male and female, said that sexual harassment in the workplace was frequent or very frequent. Legislation that would provide specific protections against sexual harassment was pending in Congress at year's end.

Women enjoy the same legal rights as men. In November, a Law on Civil Marriage entered into force that allows for civil divorces, although it still imposes lengthy waiting periods between filing for divorce and issuance of a final decree.

A 2001 SERNAM study found that in 1999 the average earnings of women were 77 percent of those of male heads of household. The minimum wage for domestic helpers, probably the largest single category of working women, was only 75 percent of the standard minimum wage (see Section 6.e.). Women with university education earned 60 percent of what their male counterparts did. A study during the year suggested that the overall income gap remained at 24 percent in 2003. The Labor Code provides specific benefits for pregnant workers and recent mothers, including a prohibition against dismissal; these also apply to domestic workers. Employers may not ask women to take pregnancy tests prior to hiring them, although La Morada received reports that the practice continued in some companies.

There were 25 registered NGOs working on women's issues. The top five were La Morada, Study Center for Women's Development (CEDEM), the Women's Institute (Instituto de la Mujer), Movement pro-Chilean Women Emancipation (MEMCH), and Information and Communication among Women Service (ISIS International). La Morada engaged in political activism aimed at overcoming gender discrimination by modifying sexist political and cultural patterns. CEDEM worked in rural areas and provided training and consulting to different women's organizations to implement social and economic development programs. The Women's Institute advocated for women's rights and political participation. MEMCH promoted personal development of women. ISIS International coordinated a network of women's organizations devoted to defending and promoting women's rights.

Children

The Government is committed to children's rights and welfare.

Education is universal, compulsory, and free from first through twelfth grade. In 2002, the median level of education was 10 years but varied regionally and across age groups. Three-quarters of the population had completed primary education (8 years), 61 percent had secondary education (12 years), and 17 percent had university or advanced technical education.

The Government provided basic health care through a public system, which includes regular checkups, vaccinations, and emergency health care. Boys and girls had equal access to medical health care.

Violence against children was a serious problem. A 2003 study by the Citizens' Peace Foundation indicated that 60 percent of 2,150 children between the ages of 7 and 10 surveyed had suffered some type of aggression against them or their belongings either inside or outside their homes.

The National Minors Service (SENAME) noted that, in the first 6 months of 2003, it had handled 28,642 cases of mistreated children; 4,158 of these cases involved sexual abuse or grave physical harm. SENAME lawyers received specialized training in child abuse cases.

Child prostitution was a problem (see Section 5, Trafficking).

Child labor in the informal economy was a problem (see Section 6.d.).

Trafficking in Persons

The law does not specifically prohibit trafficking in persons, and persons may have been trafficked to, from, and within the country.

The law criminalizes promoting the entry into or exit from the country of persons for the purpose of facilitating prostitution, with penalties of up to 3 years in prison and a fine of \$600 (430,000 pesos). Sanctions are increased in a number of circumstances, including cases in which the victim is a minor; in which violence or intimidation is used; deception or abuse of authority is involved; the victim is related or under the tutelage of the perpetrator; or advantage is taken of a victim's circumstances or handicap. The Penal Code criminalizes the prostitution of children and corruption of minors, and the age of consent for sexual relations is 14 years. A 2003 law criminalizes obtaining sexual services from a minor in exchange for money or other considerations.

The Government was investigating several cases of commercial sexual exploitation, most of which involved small local groups or individuals acting alone; however, there were no convictions.

There were no statistics available on the extent of trafficking. There are laws controlling migration, criminalizing sexual trafficking and regulating working conditions, but no integrated legislation or designated lead agency on trafficking in persons. A 2003 study conducted by SENAME and Arcis University concluded that more than 3,700 children and adolescents had been the victims of commercial sexual exploitation in 2002-03, but many knowledgeable observers considered that number too low.

Within the country, victims reportedly were trafficked from rural areas to such urban areas as Santiago, Iquique, and Valparaiso. Law enforcement authorities stated that victims were trafficked to neighboring countries (Argentina, Peru, and Bolivia), the United States, Europe, and Asia. Victims reportedly entered the country from Peru, Argentina, and Bolivia, although it was difficult to distinguish trafficked persons from economic migrants.

Anecdotal reports suggested that young women were the primary targets for trafficking to other countries. Traffickers reportedly used newspaper advertisements for models and product promoters to lure girls, age 11 to 17, into the sex trade. Law enforcement agencies indicated that traffickers looking for children also targeted economically disadvantaged families, persuading the parents that they were giving the child an opportunity for a better life.

The Government employed various measures to educate the general population on trafficking. The SENAME, the ministries of Government and Health, and other government agencies formed the Protect Network to offer public awareness and education campaigns to prevent sexual violence and abuse, although none was focused specifically on trafficking. Nearly 80 percent of SENAME's budget supported NGO programs, particularly those that work with street children. Organizations such as Mother's Centers and SENAME also offered support programs to prevent trafficking.

Persons with Disabilities

The law promotes the integration of persons with disabilities into society, and the Government's National Fund for the Handicapped had a small budget to encourage such integration; however, persons with disabilities still suffered some forms of legal discrimination. Although the law mandates access to buildings for persons with disabilities, by year's end, 74 percent of the buildings in the country failed to meet that requirement (79 percent in the Santiago metropolitan area). The public transportation

system did not provide for wheelchair access, and subway lines in the Santiago metropolitan area provided facilitated access for persons with disabilities only in some areas.

Indigenous People

The 2002 census recorded that there were approximately 692,000 self-identified people of indigenous origin (4.6 percent of the total population). The Mapuches, from the south, accounted for approximately 85 percent of this number. There were also small Aymara, Atacameno, Rapa Nui, and Kawaskhar populations in other parts of the country. Indigenous leaders contended that the census underreported the number of indigenous people.

The law gives indigenous people a voice in decisions affecting their lands, cultures, and traditions and provides for eventual bilingual education in schools with indigenous populations. Approximately one-half the population that identifies itself as indigenous remained separated from the rest of society, largely due to historical, cultural, educational, and geographical factors. In practice, both internal factors and governmental policies limited the ability of indigenous people to participate in governmental decisions affecting their lands, cultures, traditions, and the allocation of natural resources. Indigenous people also experienced some societal discrimination.

The National Corporation for Indigenous Development, which included directly elected indigenous representatives, advised and directed government programs to assist the economic development of indigenous people. Congress did not act on recommendations made in October 2003 by the Commission for Truth and New Treatment to recognize indigenous people in the Constitution and mandate indigenous representation in the Congress and local governing bodies.

Land occupations and other acts of violence by Mapuche groups sharply decreased from previous years (see Section 1.c.). The authorities tried many of those charged with attacks on property under anti-terrorist legislation.

In October, Human Rights Watch issued a report that criticized the Government for prejudice in applying the Anti-terrorist Law to Mapuche activists, citing the law's restriction of due process and harsher penalties for crimes already covered under the Civil Code. The report also alleged excessive use of police force against Mapuche activists and called for an end to the practice of trying civilian-related cases (assault and police brutality) in military tribunals. In 2003, the U.N. Special Rapporteur for the Human Rights and Fundamental Liberties of Indigenous People reported on the economic and social marginalization of indigenous communities and the criminalization of indigenous social protest movements by means of the application of the Anti-terrorist Law. The Rapporteur recommended the judicial review of cases affecting Mapuche leaders. By year's end, the Government had taken no action explicitly responding to the Report.

In March, the Government charged Aniceto Norin Catriman and Pascual Pichon Paillalao, Mapuche community leaders, and Patricia Troncoso, a supporter of the movement, with offenses under the Anti-terrorist Law. The initial trial absolved all three defendants due to a lack of evidence. In a September retrial ordered by the Supreme Court, the two men again were found innocent of the charge of "terrorist arson" but sentenced to 5 years and 1 day of prison for terrorist threats. Patricia Troncoso was absolved of all charges.

A 2003 court martial dropped charges against a Carabinero major of unnecessary violence in connection with the 2002 killing of a Mapuche activist.

Section 6 Worker Rights

a. The Right of Association

Workers have the right to form and join unions without prior authorization, and approximately 10 percent of the total work force (estimated at 5.9 million) was unionized. Police and military personnel may not organize collectively. Members of unions were free to withdraw from union membership. The law prohibits closed union shops.

The law protects workers against employer anti-union discrimination and sets fines for unfair labor practices (from roughly \$500 (300,000 pesos) to \$7,800 (4.5 million pesos)). Employers must reinstate employees fired for union activity. Fired workers can choose between reinstatement or a court-determined severance package of up to eleven months pay.

b. The Right to Organize and Bargain Collectively

Temporary workers--defined in the Labor Code as those in agriculture and construction, as well as port workers and entertainers--may form unions, but their right to collective bargaining is limited. The modification of the Labor Code contains reforms aimed at facilitating collective bargaining in the agricultural sector but it remained dependent on employers agreeing to negotiate. Inter-company unions were permitted to bargain collectively only if the individual employers agreed to negotiate under such terms.

Employees in the private sector have the right to strike; however, the Government regulated this right, and there were some restrictions.

The law permits replacement of striking workers, subject to the payment of a penalty that is distributed among the strikers. Public employees do not enjoy the right to strike, although government teachers, municipal, and health workers have gone on strike in the past. The law proscribes employees of some 30 companies--largely providers of essential services (e.g., water and electricity)--from striking; it stipulates compulsory arbitration to resolve disputes in these companies. There was no provision for compulsory arbitration in the public sector. Strikes by agricultural workers during the harvest season were prohibited. Employers must show cause and pay severance benefits to dismiss striking workers.

Labor laws applied in the duty free zones; there were no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution and the Labor Code prohibit forced or compulsory labor, and there were no reports that such practices occurred. The Labor Code does not specifically prohibit forced or compulsory labor by children, and child prostitution was a problem (see Section 5).

d. Prohibition of Child Labor and Minimum Age for Employment

The law restricts child labor; however, it was a problem in the informal economy. The law provides that children between the ages of 15 and 18 may work with the express permission of their parents or guardians, but they must attend school, and 15-year-olds only may perform light work not requiring hard physical labor or constituting a threat to health and childhood development. Additional provisions in the law protect workers under 18 years of age by restricting the types of work open to them (for example, they may not work in nightclubs) and by establishing special conditions of work (they may not work more than 8 hours in 1 day). The minimum age to work in an underground mine is 21 years; special regulations govern the ability of 18- to 21-year-olds to work at other types of mining sites.

Labor inspectors enforced these regulations, and compliance was good in the formal economy; however, many children were employed in the informal economy. In April, the Ministry of Labor and the International Labor Organization completed and released the first National Survey on Children and Adolescent Activities. The Survey revealed that, as of February 2003, approximately 200,000 children between the ages of 12 and 19 worked; that 3 percent of all children and adolescents (107,680) worked under unacceptable conditions; that, among working children, those between the ages of 5 and 14 worked an average of 18.5 hours a week; and that adolescents worked an average of 39.5 hours. Children sold chewing gum on the street, washed windshields, worked as street performers, begged, or helped their parents to harvest crops. There were 189 registered cases of the worst forms of labor, 70 percent of which affected teenage boys between the ages of 15 and 18.

SENAME, in coordination with labor inspectors, has a system for identifying and assisting children in abusive or dangerous situations. The Ministry of Labor convenes regular meetings of a tripartite group (business-labor-government) to monitor progress in eradicating child labor. SENAME has 2 programs for exploited child workers in Santiago and 1 in Valparaiso, serving roughly 200 children a year.

e. Acceptable Conditions of Work

The minimum wage is set by law, and is subject to adjustment annually. A tripartite committee comprising government, employer, and labor representatives normally suggests a minimum wage based on projected inflation and increases in productivity. The minimum wage at year's end was approximately \$196 (120,000 pesos), a 3.8 percent nominal increase from the previous year. This wage, designed to serve as the starting wage for an unskilled single worker entering the labor force, did not provide a worker and family with a decent standard of living. The minimum wage for domestic servants was 75 percent of that for other occupations (see Section 5).

The law sets hours of work. The legal workweek is 6 days or 48 hours. Rule changes mandated reduction of the workweek to 45 hours beginning January 1, 2005. The maximum workday length is 10 hours (including 2 hours of overtime pay), but positions such as caretakers and domestic servants are exempt. All workers enjoy at least one 24-hour rest period during the workweek, except for workers at high altitudes who may exchange a work-free day each week for several consecutive work-free days every 2 weeks.

The law establishes occupational safety and health standards, which were administered by the ministries of Health and of Labor and effectively enforced. Insurance mutual funds provide workers' compensation and occupational safety training for the private and public sectors. Workers who remove themselves from situations that endanger their health and safety have their employment protected if a real danger to their health or safety exists. Labor inspectors from the Labor Directorate are responsible for determining whether such dangers exist.